

REMARKS

Reconsideration of the present application is requested. Claims 1-9 are currently pending. Claims 1-9 have been amended and claims 1, 2, 8 and 9 are independent claims.

CLAIM OBJECTIONS

The Examiner objects to claims 1 and 3-8 because "EDP," is allegedly unclear. Although Applicant does not necessarily agree that EDP is unclear, Applicant has amended the Abstract and paragraph [0008] of the Specification as requested by the Examiner. Withdrawal of this objection is requested.

DRAWING OBJECTIONS

The Examiner objects to the drawings because "what the various black boxes represent should be explained." *Non-Final Office Action*, p. 2 (June 21, 2006). Although Applicant does not necessarily agree with the Examiner, Applicant has amended the drawings taking into account the Examiner's comments.

REJECTIONS UNDER 35 U.S.C. §101

The Examiner rejects claims 1 and 3-8 under 35 U.S.C. §101 because claims 1 and 3-8 are allegedly directed to non-statutory subject matter. Particularly, the Examiner asserts claim 1 is directed to an abstract method for creating a plant concept, which does not recite a useful, concrete and tangible result, but instead merely results in an abstract plant concept without any actual physical implementation of the plant concept. *Office Action* at 3.

However, Applicants disagree with the Examiner's conclusion because actual physical implementation of a plant's concept is not necessary to render the method of claim 1 statutory and because the method of claim 1 produces a useful, concrete and tangible result in the form of a plant concept describing an actually feasible technical plant, which may be used in the preparation of tender offers for technical plants.

The Court of Appeals for the Federal Circuit (CAFC) has established that a mere value, such as a final share price, is considered a useful concrete and tangible result if the value is useful in some way. *See, e.g., State Street Bank Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d. 1368, 1373 (Fed. Cir. 1998) (holding that a final share price constitutes a useful, concrete and tangible result because the final share price is relied upon by regulating authorities and subsequent trades.). Similar to the final share price in *State Street Bank Trust Co.*, the plant concept created by the method of claim 1 describes an actually feasible technical plant, which may be used in the preparation of tender offers for technical plants. Therefore, claim 1 is statutory because the method recited therein produces a plant concept, which is useful in preparing tender offers.

Moreover, a claim need not produce any "actual physical implementation," (*Office Action* at 3.) of the plant concept to be rendered statutory under 35 U.S.C. §101. *See, generally, State Street Bank Trust Co.*, 149 F.3d. 1368. Therefore, regardless of whether claim 1 produces any actual physical implementation of the technical plant, claim 1 is directed to statutory

subject matter because the plant concept created therein is a useful, concrete and tangible result as defined by the CAFC.

Claims 3-8 are also directed to statutory subject matter for at least somewhat similar reasons.

**REJECTIONS UNDER 35 U.S.C. §102(e) IN VIEW OF U.S. PATENT
PUBLICATION NO. 2003/0055742**

Claims 1-9 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Publication No. 2003/0055742 ("*Hodl*"). This rejection is respectfully traversed.

Hodl fails to teach all features set forth in claim 1, and thus, fails to anticipate the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. § 2131. Therefore, the rejection of claim 1 in view of *Hodl* should be withdrawn because *Hodl* fails to anticipate claim 1.

Hodl discloses a configurator and method for planning of a plant. In *Hodl*, after answering questions regarding the configuration of a plant, a user is presented with a configuration 15. FIG. 2, [0103]. That is, in operation a configuration unit 7 generates a configuration 15 of a plant in response to input from the user. After the configuration 15 is generated, the user is given the opportunity to intervene in individual configuration steps to correct previously input characteristic data and/or to manually choose from various configuration options within a particular configuration step. *Id.* at [0103].

Hodl, however, fails to teach or fairly suggest, a method including "selecting plant component types required for satisfying the desired specification of the technical plant from a stored supply of plant component

types using a first neural network," and "creating the plant concept from the plant configuration using a second neural network," wherein the "first and second neural networks are different," as required by claim 1. Although *Hodl* briefly mentions artificial intelligence and/or expert systems (see, e.g., [0038].), the entire configuration produced in *Hodl* is generated based solely on user input, and, at most, using only a single artificial intelligence model. *Hodl* fails to teach or fairly suggest the use of any, "neural network," as set forth in claim 1, let alone, two different neural networks, as required by claim 1. Therefore, *Hodl* fails to anticipate claims 1-9 because *Hodl* fails to teach or fairly suggest a method including the "selecting" and the "creating," as set forth in claim 1, because *Hodl* fails to use two different neural networks to do so.

Hodl also fails to anticipate claims 2, 8 and 9 for at least somewhat similar reasons. *Hodl* fails to anticipate claims 3-7 at least by virtue of their dependency from claims 1 or 2.

REJECTIONS UNDER 35 U.S.C. §102(e) IN VIEW OF U.S. PATENT NO. 7,003,359

Claim 1 is further rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 7,003,359 ("*Phelps*"). This rejection is respectfully traversed.

Phelps discloses choosing a process plant from a process plant product line to satisfy requirements of a buyer, and then tailors the chosen process plant to a particular buyer. See, generally, *Phelps*. That is, in *Phelps* a process plant configuration is chosen from a limited standard predefined process plant product line, and then particular aspects of the process plant are tailored to

the buyer's specifications by a user. *Id.* However, the method of claim 1 uses no such standard predefined process plant. By contrast, in the method of claim 1, "plant component types required for satisfying the desired specification," are selected "using a first neural network," and "the plant concept," is created "using a second neural network." Therefore, *Phelps* fails to anticipate claim 1 because in the method of *Phelps*, a standard predefined process plant is selected and then a user specifies particular aspects of the process plant according to a buyers specifications, whereas in the method of claim 1, "plant component types required for satisfying the desired specification of the technical plant," are selected using a first neural network and "the plant concept," is created using a second and different neural network. For at least this reason, *Phelps* fails to anticipate claim 1.

FURTHER PRIOR ART REJECTIONS

The Examiner rejects claims 2-9 under 35 U.S.C. § 103(a) as unpatentable over as allegedly unpatentable over *Phelps*. With respect to claims 2, 8 and 9, even assuming *arguendo* that *Phelps* could be modified as suggested by the Examiner, (which Applicants do not admit), claims 2, 8 and 9 still distinguish over *Phelps* for at least reasons somewhat similar to those set forth above with regard to claim 1. Therefore, even if modified, *Phelps* still fails to render claims 2, 8 and 9 obvious because the *Phelps* still fails to teach all features of the claims. MPEP § 706.02(j). For at least these reasons, the rejection of claims 2, 8 and 9 over *Phelps* should be withdrawn.

Regarding claims 3-7, even assuming *arguendo* that *Phelps* could be modified as suggested by the Examiner (which Applicants do not admit); *Phelps* still suffers from the deficiencies as discussed above with regard to claims 1 or 2. Therefore, even if modified, *Phelps* still fails to render claims 3-7 obvious because *Phelps* would still fail to teach all features of claims 1 or 2. MPEP § 706.02(j). For at least these reasons, the rejection of claims 2-7 over *Phelps* should be withdrawn.

CONCLUSION

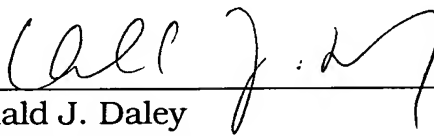
In view of above remarks, reconsideration of the outstanding rejection and allowance of the pending claims is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS

The attached "Replacement Sheet" of drawings includes changes to Figure 1. The attached "Replacement Sheet," which includes Figure 1, replaces the original sheet including Figure 1.

Attachment: Replacement Sheet